

# House File 2627 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HF 2240)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to energy independence initiatives, specifying  
2 procedures applicable to Iowa power fund applications,  
3 authorizing allocations from the fund, including certain  
4 alternative or renewable energies applicable to specified  
5 energy independence initiatives, and providing an effective  
6 date and applicability provision.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
8 TLSB 5737HV 82  
9 rn/nh/8

PAG LIN

1 1 Section 1. Section 22.7, Code Supplement 2007, is amended  
1 2 by adding the following new subsection:  
1 3 NEW SUBSECTION. 60. Information possessed by the office  
1 4 of energy independence, the Iowa power fund board, or the due  
1 5 diligence committee associated with the office and the board,  
1 6 relating to a prospective applicant with which the office,  
1 7 board, or committee is currently negotiating, or an award  
1 8 recipient, to the extent authorized pursuant to section 469.6,  
1 9 subsection 6.  
1 10 Sec. 2. Section 469.6, subsection 5, paragraph d, Code  
1 11 Supplement 2007, is amended to read as follows:  
1 12 d. Direct moneys from the fund to be used to purchase  
1 13 private or public technical assistance needed to conduct due  
1 14 diligence activities, to facilitate a technical, scientific,  
1 15 or financial review relating to an application for financial  
1 16 assistance to the extent not financed by the applicant and if  
1 17 recommended by the due diligence committee, and to develop an  
1 18 Iowa energy independence plan, pursuant to section 469.10,  
1 19 subsection 3A. Other than applicant financing of a technical,  
1 20 scientific, or financial review of an application for  
1 21 financial assistance if agreed to by an applicant and the due  
1 22 diligence committee, an application fee shall not be imposed.  
1 23 Sec. 3. Section 469.6, Code Supplement 2007, is amended by  
1 24 adding the following new subsection:  
1 25 NEW SUBSECTION. 6. a. In establishing guidelines,  
1 26 procedures, and policies for the awarding of financial  
1 27 assistance, the board shall give due regard to the  
1 28 confidentiality of certain information disclosed during the  
1 29 financial assistance application process and the contract  
1 30 administration process.  
1 31 b. All information contained in an application for  
1 32 financial assistance submitted to the board shall remain  
1 33 confidential while the board is reviewing the application,  
1 34 processing requests for confidentiality, negotiating with the  
1 35 applicant, and preparing the application for consideration by  
2 1 the board. After the board has considered a request for  
2 2 confidentiality, any information not deemed confidential by  
2 3 the board shall be made publicly available. Any information  
2 4 deemed confidential by the board shall also be kept  
2 5 confidential by the office and board during administration of  
2 6 a contract executed pursuant to a successful application.  
2 7 c. The board shall consider the written request of an  
2 8 applicant or award recipient to keep confidential certain  
2 9 details of an application, a contract, or the materials  
2 10 submitted in support of an application or a contract. If the  
2 11 request includes a sufficient explanation as to why the public  
2 12 disclosure of such details would give an unfair advantage to  
2 13 competitors, the board may keep certain details confidential.  
2 14 If the board elects to keep certain details confidential, the

2 15 board shall release only the nonconfidential details in  
2 16 response to a request for records pursuant to chapter 22. If  
2 17 confidential details are withheld from a request for records  
2 18 pursuant to chapter 22, the board shall release an explanation  
2 19 of why the information was deemed confidential and a summary  
2 20 of the nature of the information withheld. In considering  
2 21 requests for confidential treatment, the board shall narrowly  
2 22 construe the provisions of this paragraph and paragraphs "a",  
2 23 "b", "d", and "e" in order to appropriately balance an  
2 24 applicant's need for confidentiality against the public's  
2 25 right to information about the board's activities.

2 26 d. If a request for confidentiality is denied by the  
2 27 board, an applicant may withdraw an application and any  
2 28 supporting materials, and the board shall not retain any  
2 29 copies of the application. Upon notice that an application  
2 30 has been withdrawn, the board shall not release a copy in  
2 31 response to a request for records pursuant to chapter 22.

2 32 e. The board shall adopt by rule a process for considering  
2 33 requests to keep information confidential pursuant to this  
2 34 paragraph and paragraphs "a" through "d". The board may adopt  
2 35 emergency rules pursuant to chapter 17A. The rules shall  
3 1 include a reasonable period of time for keeping information  
3 2 confidential. At the end of such period of time, the board  
3 3 may reevaluate its decision to keep information confidential.  
3 4 When reevaluating a decision to keep information confidential,  
3 5 the board shall use the same standard used to make the initial  
3 6 decision. The rules shall also include criteria for guiding  
3 7 the board's decisions about the confidential treatment of  
3 8 applicant information. The criteria may include, but are not  
3 9 limited to the following:

3 10 (1) The nature and extent of competition in the  
3 11 applicant's industry sector.

3 12 (2) The likelihood of adverse financial impact to the  
3 13 applicant if the information were to be released.

3 14 (3) The risk that the applicant would locate in another  
3 15 state if the request is denied.

3 16 (4) Any other factor the board reasonably considers  
3 17 relevant.

3 18 Sec. 4. Section 469.10, subsection 1, Code Supplement  
3 19 2007, is amended to read as follows:

3 20 1. There is appropriated from the general fund of the  
3 21 state to the office of energy independence for each fiscal  
3 22 year of the fiscal period beginning July 1, 2008, and ending  
3 23 June 30, 2011, the sum of twenty-five million dollars to be  
3 24 used for awarding grants and making loans from the Iowa power  
3 25 fund, and for all other purposes specified in and consistent  
3 26 with this subchapter.

3 27 Sec. 5. Section 469.10, Code Supplement 2007, is amended  
3 28 by adding the following new subsection:

3 29 NEW SUBSECTION. 3A. Of the moneys appropriated to the  
3 30 office and deposited in the fund, the board may make  
3 31 allocations for the purchase of private or public technical  
3 32 assistance needed to conduct due diligence activities, to  
3 33 facilitate a technical, scientific, or financial review  
3 34 relating to an application for financial assistance to the  
3 35 extent not financed by the applicant and if recommended by the  
4 1 due diligence committee, and to develop an Iowa energy  
4 2 independence plan, in amounts and in instances as approved by  
4 3 the due diligence committee.

4 4 Sec. 6. Section 469.31, subsection 2, Code Supplement  
4 5 2007, is amended to read as follows:

4 6 2. "Alternative and renewable energy" means energy sources  
4 7 including but not limited to solar, wind turbine, waste  
4 8 management, resource recovery, recovered energy generation,  
4 9 refuse-derived fuel, hydroelectric, agricultural crops or  
4 10 residues, hydrogen produced using renewable fuel sources,  
4 11 nuclear, and woodburning, or relating to renewable fuel  
4 12 development and distribution.

4 13 Sec. 7. 2007 Iowa Acts, chapter 209, section 2, is amended  
4 14 to read as follows:

4 15 SEC. 2. IOWA POWER FUND. There is appropriated from the  
4 16 general fund of the state to the office of energy  
4 17 independence, if enacted by 2007 Iowa Acts, House File 918, or  
4 18 its successor, for the fiscal year beginning July 1, 2006, and  
4 19 ending June 30, 2007, the following amount, or so much thereof  
4 20 as is necessary, to be used for the purposes designated:

4 21 For deposit in the Iowa power fund, if enacted by 2007 Iowa  
4 22 Acts, House File 918, or its successor, to be used for  
4 23 awarding grants and making loans from the Iowa power fund, and  
4 24 for all other purposes specified in and consistent with the  
4 25 provisions of House File 918, or its successor:

4 26 ..... \$ 24,670,000  
4 27 1. Of the moneys appropriated to the office and deposited  
4 28 in the fund, the office shall utilize up to one and  
4 29 five-tenths percent of the amount appropriated from the fund  
4 30 for administrative purposes.  
4 31 2. Of the moneys appropriated to the office and deposited  
4 32 in the fund, there shall be allocated two million five hundred  
4 33 thousand dollars to the department of economic development for  
4 34 deposit into the workforce training and economic development  
4 35 funds of the community colleges created pursuant to section  
5 1 260C.18A. Of the funds so deposited into the workforce  
5 2 training and economic development funds of the community  
5 3 colleges, two million five hundred thousand dollars shall be  
5 4 used each year in the development and expansion of energy  
5 5 industry areas and for the department's north American  
5 6 industrial classification system for targeted industry areas  
5 7 established pursuant to section 260C.18A.  
5 8 2A. Of the moneys appropriated to the office and deposited  
5 9 in the fund, the board may allocate moneys for the purchase of  
5 10 private or public technical assistance needed to conduct due  
5 11 diligence activities, to facilitate a technical, scientific,  
5 12 or financial review relating to an application for financial  
5 13 assistance to the extent not financed by the applicant and if  
5 14 recommended by the due diligence committee, and to develop an  
5 15 Iowa energy independence plan.  
5 16 3. Notwithstanding section 8.33, amounts appropriated  
5 17 pursuant to this section shall not revert but shall remain  
5 18 available for the purposes designated for the following fiscal  
5 19 year. Notwithstanding section 12C.7, subsection 2, interest  
5 20 or earnings on moneys in the funds shall be credited to the  
5 21 fund.  
5 22 Sec. 8. APPLICABILITY. The section of this Act amending  
5 23 section 22.7, relating to an exception to the open records  
5 24 law, and enacting section 469.6, subsection 6, relating to  
5 25 board determination of confidentiality upon a request for  
5 26 records pursuant to chapter 22, shall apply to requests in  
5 27 relation to applications that are in process on the effective  
5 28 date of this Act.  
5 29 Sec. 9. EFFECTIVE DATE. This Act, being deemed of  
5 30 immediate importance, takes effect upon enactment.  
5 31 EXPLANATION  
5 32 This bill relates to energy independence initiatives,  
5 33 specifying procedures applicable to applications for  
5 34 distributions from the Iowa power fund, modifying provisions  
5 35 regarding authorized allocations from the fund, and adding an  
6 1 additional energy source to a definition of alternative and  
6 2 renewable energy.  
6 3 The bill provides with reference to the duties of the Iowa  
6 4 power fund board that the board may direct moneys from the  
6 5 fund to facilitate a technical, scientific, or financial  
6 6 review relating to an application to the extent that such a  
6 7 review is not financed by an applicant and if utilizing the  
6 8 funds for this purpose is recommended by the due diligence  
6 9 committee. The bill states that beyond applicant financing of  
6 10 such a review if agreed to by an applicant and the board, no  
6 11 application fee for fund distribution applications will be  
6 12 imposed. Utilization of fund moneys for this purpose,  
6 13 together with currently authorized expenditures by the board  
6 14 for the purchase of private or public technical assistance  
6 15 needed to conduct due diligence activities and to develop an  
6 16 Iowa energy independence plan, is added as an authorized  
6 17 allocation from amounts appropriated to the fund pursuant to  
6 18 Code section 469.10. More generally, the bill provides that  
6 19 allocations of appropriated amounts may be made for all  
6 20 purposes specified in and consistent with the subchapter of  
6 21 the Code relating to the office of energy independence, the  
6 22 power fund board, the due diligence committee, the power fund,  
6 23 and related provisions.  
6 24 The bill accomplishes the foregoing by amending Code  
6 25 section 469.6, relating to the duties of the Iowa power fund  
6 26 board, by amending Code section 469.10, subsection 1,  
6 27 regarding appropriations for the fiscal period beginning July  
6 28 1, 2008, and ending June 30, 2011, and amending the 2007 Iowa  
6 29 Acts for the one-year appropriation beginning July 1, 2006,  
6 30 and ending June 30, 2007.  
6 31 The bill also provides an exception from open records law  
6 32 provisions of Code chapter 22, for information possessed by  
6 33 the office of energy independence, the Iowa power fund board,  
6 34 and the due diligence committee associated with the office and  
6 35 the board relating to a prospective applicant with which the  
7 1 office, board, or committee is currently negotiating, or an

7 2 award recipient, to the extent authorized by the board. In  
7 3 connection with this exception, the bill provides that all  
7 4 information contained in an application for financial  
7 5 assistance submitted to the board shall remain confidential  
7 6 while the board is reviewing an application, processing  
7 7 confidentiality requests, negotiating with an applicant, and  
7 8 preparing an application for consideration. The bill further  
7 9 provides that the board shall consider a written request by an  
7 10 applicant or award recipient to keep certain details of an  
7 11 application, contract, or supporting materials confidential,  
7 12 and may honor that request if convinced that public disclosure  
7 13 may give an unfair advantage to competitors. In that event,  
7 14 the board will only make publicly available information not  
7 15 deemed confidential by the board, and shall release an  
7 16 explanation of why certain information is deemed confidential  
7 17 and a summary of the nature of the withheld information. If a  
7 18 request for confidentiality is denied, an applicant may  
7 19 withdraw an application and supporting materials, and the  
7 20 board shall not retain a copy or release any material in  
7 21 response to an open records request. The bill directs the  
7 22 board by rule to develop a process for considering  
7 23 confidentiality requests, confers emergency rulemaking  
7 24 authority on the board, and requires the board to determine a  
7 25 reasonable time frame for maintaining the confidential status  
7 26 of materials deemed such, after which the board may reevaluate  
7 27 the determination of confidentiality. The bill also specifies  
7 28 criteria the board may use in making confidentiality  
7 29 determinations.

7 30 Additionally, the bill adds nuclear energy to the  
7 31 definition of alternative and renewable energy applicable to  
7 32 Code chapter 469 relating to energy independence initiatives.

7 33 The bill takes effect upon enactment.

7 34 LSB 5737HV 82

7 35 rn/nh/8